

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
GREENSBORO DIVISION

IN RE:)
)
Georgette Walker,) Case No. 13-10297
)
 Debtor.)
)
)
Georgette Walker,)
)
 Plaintiff,)
)
 v.) Adversary No. 13-2053
)
Santander Consumer USA, Inc.,)
)
 Defendant.)
)

OPINION AND ORDER

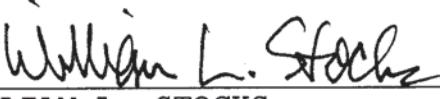
This adversary proceeding came before the court on October 1, 2013, for hearing on the defendant's motion to dismiss pursuant to Rule 12(b) (6) of the Federal Rules of Civil Procedure and Rule 7012 of the Federal Rules of Bankruptcy Procedure for failure to state a claim upon which relief can be granted ("Motion"). Having considered the Motion, the complaint and the arguments presented at the hearing, the court has concluded that the motion should be granted.

The plaintiff seeks to recover monetary damages for an alleged violation of the discharge injunction. The complaint, however, is purely conclusory in that it does not describe the conduct on the part of the defendant that allegedly constituted a violation of the discharge injunction. Moreover, it is settled that while section

524 of the Bankruptcy Code provides for the discharge injunction, it does not provide for a private right of action by a debtor to recover money damages based upon a violation of the discharge injunction. E.g., Walls v. Wells Fargo Bank, N.A., 276 F.3d 502 (9th Cir. 2002); Cox v. Zale Delaware, 239 F.3d 910 (7th Cir. 2001); Pertuso v. Ford Motor Credit Co., 233 F.3d 417 (6th Cir. 2000). It follows that the plaintiff's complaint should be dismissed. Plaintiff will be allowed twenty days from the date of this order within which to file an amended complaint, failing which this adversary proceeding shall be closed.

IT IS SO ORDERED.

This 3rd day of October, 2013.



WILLIAM L. STOCKS
United States Bankruptcy Judge

Parties to be served

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